

1 AN ACT concerning certain financial institutions.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Banking Act is amended by
5 changing Section 37 as follows:

6 (205 ILCS 5/37) (from Ch. 17, par. 347)

7 Sec. 37. Loans to officers and loans on and purchases of
8 bank's own stock.

9 (1) No state bank shall make any loan or extension of
10 credit in excess of the limits, as determined by the
11 Commissioner, at any one time outstanding each to its
12 president, or to any of its vice presidents or its salaried
13 officers or employees or directors or to corporations or
14 firms, controlled by them, or in the management of which any
15 of them are actively engaged, unless such loan or extension
16 of credit shall have been first approved, by the board of
17 directors. The Commissioner shall prescribe such limits by
18 rules.

19 (2) It shall not be lawful for a state bank to make any
20 loan or discount on the security of the shares of its own
21 capital stock or preferred stock or on the security of its
22 own debentures or evidences of debt which are either
23 convertible into capital stock or are junior or subordinate
24 in right of payment to deposit or other liabilities of the
25 bank; provided, however, that a state bank may acquire or
26 hold such shares or securities as authorized by Section 14 of
27 this Act.

28 (3)(a) For purposes of this Section, "control" means (i)
29 ownership, control, or power to vote 25% or more of the
30 outstanding shares of any class of voting security of the
31 corporation or firm, directly or indirectly, or acting

1 through or in concert with one or more other persons; (ii)
2 control in any manner over the election of a majority of the
3 directors of the corporation or firm; or (iii) the power to
4 exercise a controlling influence over the management or
5 policies of the corporation or firm, directly or indirectly,
6 or acting through or in concert with one or more persons.

7 (3)(b) A person does not have the power to exercise a
8 controlling influence over the management or policies of a
9 corporation or firm solely by virtue of the person's position
10 as an officer or director of the corporation or firm.

11 (3)(c) A person is presumed to have control, including
12 the power to exercise a controlling influence over the
13 management or policies, of a corporation or firm if:

14 (i) the person:

15 (A) is an executive officer, director, or
16 individual exercising similar functions of the
17 corporation or firm; and

18 (B) directly or indirectly owns, controls, or
19 has the power to vote more than 10% of any class of
20 voting securities of the corporation or firm; or

21 (ii) (A) the person directly or indirectly owns,
22 controls, or has the power to vote more than 10% of
23 any class of voting securities of the corporation or
24 firm; and

25 (B) no other person directly or indirectly
26 owns, controls, or has the power to vote a greater
27 percentage of that class of voting securities.

28 (3)(d) A person may rebut a presumption established
29 under subdivision (3)(c) of this Section by submitting
30 written materials that, in the Commissioner's judgment,
31 demonstrate an absence of control.

32 (Source: P.A. 92-483, eff. 8-23-01.)

33 Section 99. Effective date. This Act takes effect upon

1 becoming law.